IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY NINTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 4813 of 1998

Between:

K.Ganesh Reddy, S/o. Peda Vengaiah Garu,
B.D.L.Canteen, Bhanur Village,
Patancheruvu Mandal, Medak District.

....PETITIONER

AND

1 The BDL Factory, Rep. by its Dy.General Manager,
Personal and Administration, Bhanur,
Medak District.

2 The Chairman & Managing Director.,
Bharath Dynamic Ltd.,
Kanchanbagh, Hyderabad. A.P.,

3 The Chief Controller, Bharath Dynamic Ltd.,
Bhanur Unit, Medak District, A.P.,

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ or order or direction under Article 226 of the Constitution of India, particularly one in the nature of Writ of Mandamus,

directing the respondents to treat the petitioner as the employee of the respondents factory and to regularize his services and grant all service benefits after calling for the records.

Counsel for the Petitioner: MR.PRATTIPATI VENKATESWARLU
Counsel for the Respondents: MR.K.SRINIVASAMURTHY

The Court made the following :

ORDER

Heard Mr.P.Venkateswarlu, learned counsel appearing on behalf of the petitioner and also Mr.K.Srinivasa Murthy, learned counsel appearing on behalf of the respondents.

The petitioner herein, who has been working as Assistant Cook at Bharath Dynamic Limited (B.D.L.) canteen, filed this Writ Petition *inter alia* seeking a mandamus to treat him as an employee of the respondents, regularize his services and grant all service benefits to which he is entitled to on par with the similarly placed employees.

The case of the petitioner in brief is that he was initially engaged as an Assistant Cook in the B.D.L. canteen by the then Contractor on 25-03-1991 and he worked till 03-06-1992. Thereafter, he was appointed by the respondent's factory on 06-03-1993 and he has been working as such in the said canteen till today. It is the further case of the petitioner that similarly placed persons have approached this Court seeking similar such relief in W.P.No.8015 of 1992 and the same was allowed by a Division Bench of this Court and ultimately the said order was confirmed in the appeal filed by the respondents herein in the Supreme Court. The decision of this Court was also reported in 1997 (1) A.L.T., page 97. Hence the Writ Petition.

In the counter affidavit filed by the Additional General Manager (P & A), it is stated that there is no dispute to the fact that on earlier occasion, certain canteen workers have approached this Court and ultimately the same was allowed directing to regularize their services. However, the petitioner was not a party to the said proceedings nor agitated the issue earlier before any Court of law. It is only after the said Writ Petition was allowed at the instance of those employees, the petitioner approached this Court in the year 1998 for grant of relief. Further, it is also pointed out specifically that the petitioner might have worked in B.D.L. factory as a Casual/Contract labour under various contractors for different spells during the project stage of the Unit. Therefore, he is not entitled to similar such relief.

Having heard the learned counsel on either side and on perusal of record, the only question which arises for consideration on the facts and circumstances of the case is, as to whether the petitioner is entitled for the relief of regularization of services on par with the similarly placed canteen workers who approached this Court earlier?

There is no dispute in regard to the specific averments made by the petitioner that he was initially engaged as an Assistant Cook in the B.D.L. canteen by the then Contractor on 25-03-1991 and he worked till 03-06-1992. Thereafter, he was appointed by the respondent's factory on 06-03-1993 and he has been continuing as such. In the counter affidavit filed by the respondents herein, it is stated that the petitioner might have worked on different spells under various contractors and that will not create any right to seek the relief. It is the case of the respondents that this Court allowed similar such relief at the instance of other canteen workers and the petitioner has not approached this Court along with them. The submissions made on behalf of the respondents to that effect do not have any support. In view of the fact that the petitioner has been working as Canteen

worker on par with the similarly placed canteen workers who have approached this Court and got the relief, the petitioner cannot be denied of such relief. In view of the same, it has to be held that the petitioner is entitled for regularization of services on par with the similarly placed canteen workers.

In the circumstances, the Writ Petition is allowed directing the respondents to regularize the services of the petitioner and grant all other service benefits to which he is entitled to. No costs.

29-03-2005

Note: Issue CC in one week

B/o

Hsd

That Rule Nisi has been made absolute as above.

Witness, the Hon'ble Sri Devinder Gupta, the Chief Justice, on this Tuesday, the Twenty Ninth day of March, 2005.

Asst. Registrar

To

1 The General Manager, BDL Factory, Personal and Administration, Bhanur, Medak District.

2 The Chairman & Managing Director.,
Bharath Dynamic Ltd.,
Kanchanbagh, Hyderabad. A.P.,

3 The Chief Controller, Bharath Dynamic Ltd.,

Bhanur Unit, Medak District, A.P.,

4 2 CD copies.